

In re: ROBERT K. GRIDER.
A.Q. Docket No. 02-0003.
Decision and Order.
Filed October 22, 2003.

AQ – Default – Transporting swine without certificate.

Darlene Bolinger, for Complainant.
Respondent, Pro se.

Decision and Order issued by James W. Hunt, Administrative Law Judge.

This is an administrative proceeding for the assessment of a civil penalty for a violation of the regulations governing the interstate transportation of animals, including poultry, and animal products (9 C.F.R. §§ 71.19 and 85.1 *et seq.*), hereinafter referred to as the regulations, in accordance with the Rules of Practice in 7 C.F.R. § 1.130 *et seq.*

This proceeding was instituted under section 2 of the Act of February 2, 1903, as amended (21 U.S.C. § 111)(Act)¹ and the regulations promulgated thereunder, by a complaint filed on February 7, 2002, by the Acting Administrator of the Animal and Plant Health Inspection Service, United States Department of Agriculture. The respondent failed to file an answer within the time prescribed in 7 C.F.R. § 1.136(a). Section 1.136(c) of the Rules of Practice (7 C.F.R. § 1.136(c)) provides that the failure to file an answer within the time provided under 7 C.F.R. § 1.136(a) shall be deemed an admission of the allegations in the complaint. Further, the failure to file an answer constitutes a waiver of hearing. (7 C.F.R. § 1.139). Accordingly, the material allegations in the complaint are adopted and set forth in this Default Decision and Order as the Findings of Fact, and this Decision is issued pursuant to section 1.139 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.139).

Findings of Fact

1. Robert K. Grider is an individual with a mailing address of Route 1, Box 177L, Road 611, Duffield, Virginia 24244.
2. On or about January 12, 1999, respondent violated 9 C.F.R. §§ 85.7(c) by moving approximately 47 swine from Indiana to Virginia without a certificate.

¹The combined authority sections for Parts 71 and 85 are the Act of February 2, 1903 (21 U.S.C. §§ 111, 120 through 122); Sections 4-8, 11 and 13 of the Act of May 29, 1884, (21 U.S.C. §§ 113, 114a, 114a-1, 115-117, 120); Section 1-4 of the Act of March 3, 1905 (21 U.S.C. §§ 123-126); and sections 3 and 11 of Public Law 87-518 (21 U.S.C. §§ 134b, and 134f).

3. On or about January 12, 1999, respondent violated 9 C.F.R. § 71.19 by the movement of approximately 47 swine from Indiana to Virginia, without individual identification.

4. On or about January 12, 1999, respondent violated 9 C.F.R. §§ 85.7(c) by moving approximately nineteen swine from Indiana to Kentucky, without a certificate.

5. On or about January 12, 1999, respondent violated 9 C.F.R. § 71.19 by the moving approximately nineteen swine from Indiana to Kentucky, without individual identification.

Conclusion

By reason of the Findings of Fact set forth above, the respondent has violated the Act and the regulations issued under the Act (9 C.F.R. §§ 71.19 and 85.1 *et seq.*). Therefore, the following Order is issued.

Order

The respondent is hereby assessed a civil penalty of ten thousand dollars (\$10,000.00). This penalty shall be payable to the "Treasurer of the United States" to:

United States Department of Agriculture
APHIS Field Servicing Office
Accounting Section
P.O. Box 3334
Minneapolis, Minnesota 55403

within thirty (30) days from the effective date of this Order. The civil penalty shall be made payable as follows: five hundred dollars (\$500.00) of the assessed amount shall be payable within thirty days from the effective date of this Order. Thereafter, a monthly installment of five hundred dollars (\$500.00) shall be due and payable on or before the tenth day of each month, for the next nineteen (19) months, until the assessed penalty is paid in full. Each certified check or money order should include the docket number of this proceeding.

This order shall have the same force and effect as if entered after a full hearing and shall be final and effective thirty five (35) days after service of this Default Decision and Order upon respondent, unless there is an appeal to the Judicial Officer pursuant to section 1.145 of the Rules of Practice applicable to this proceeding. (7 C.F.R. § 1.145).

[This Decision and Order became final November 30, 2002.-Editor]